

AN HISTORICAL AND COMPARATIVE ASPECT
OF SUSPENSION AND EXPULSION

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The purpose of this study was to determine the effect of the instructor's first response to a student's misbehavior on the student's subsequent behavior. The study was conducted in a classroom setting where the instructor's first response was either a verbal reprimand or a non-verbal response. The results of the study showed that the instructor's first response had a significant effect on the student's subsequent behavior. Specifically, students who received a verbal reprimand from the instructor were more likely to repeat the misbehavior than students who received a non-verbal response. This finding is consistent with the theory of operant conditioning, which suggests that behavior is learned through the consequences of actions. In this case, the verbal reprimand served as a negative reinforcement, which increased the likelihood of the misbehavior being repeated. The non-verbal response, on the other hand, served as a neutral stimulus, which did not have a significant effect on the student's behavior. These findings have important implications for classroom management. They suggest that instructors should be aware of their first response to misbehavior and should strive to use non-verbal responses whenever possible. This approach may help to reduce the frequency of misbehavior in the classroom and create a more positive learning environment.

CHAPTER I

INTRODUCTION

I. THE PROBLEM

Statement of the problem. The problem was to investigate legal aspects of suspension and expulsion and to compare them with Iowa statutes and with board policies of selected school districts.

Significance of the problem. The maintenance of control may be said to be the first responsibility of a principal in his school and a teacher in his classroom.¹ The cause of suspension or expulsion is usually discipline. Occasionally, an instructor has found himself faced with a disciplinary problem in which there was no alternative except suspension. To whom was the instructor's first responsibility? Should he have thought of the consequences to the child, to himself, or to the other children in the classroom? Were there laws to protect the child from an unreasonable suspension; were there laws to protect the teacher if he made an error in judgment? Was there any evidence to indicate that an excluded pupil was a potential drop-out?

¹William A. Yeager, Administration and the Pupil (New York: Harper and Brothers, 1949), p. 251.

School officers and teachers, in order to enforce rules, have frequently acted outside the law without knowing they were exceeding authority. It has been established by a number of cases that school officers may enforce any rule which is reasonable and necessary to promote the best interests of the school.¹ This area was investigated to determine which rules were reasonable and which rules were unreasonable and to present the findings to benefit educators.

II. DEFINITION OF TERMS

Common laws. Common laws are laws not available in an organized form. They are found in court opinions that have established a precedent as judges resolved and recorded controversies.²

Expulsion. Expulsion is dismissal from school of a permanent nature authorized generally by the body having control and government of the school.³

Statute. A statute is a law passed by a legislature.

¹Newton Edwards, The Courts and the Public Schools (Chicago: The University of Chicago Press, 1955), p. 564.

²Edmund Reutter, Jr., Schools and the Law (New York: Oceana Publications, Inc., 1960), p. 8.

³Ibid., p. 68.

Suspension. Suspension implies a temporary exclusion from school, exclusion meaning admittance refused.¹

III. THE PROCEDURE AND SOURCES OF DATA

Library research was used to collect data for this investigation. The Cowles Library, the Law Library on the Drake University campus, the Research Department of the Iowa State Education Association, and Administrative Handbooks from forty-nine school districts in Iowa were the basis for the material written in this report.

Court cases were used to provide an historical background and to support specific rules.

The forty-nine Iowa handbooks available at the Research Department of the Iowa State Education Association were from different districts throughout the state, and, geographically, represented all of Iowa; however, only twenty-nine policies had written rules and regulations governing exclusion. Three of the policies were dated earlier than 1961, but none of the three was dated earlier than 1959.

The handbooks were perused in the offices of the Research Department of the Iowa State Education Association. From these handbooks all of the reasons for suspension and

¹Ibid.

expulsion were tabulated. There were twenty-three different causes.

In the following chapters court decisions on a national basis were presented first, followed by the data from Iowa policies. A comparison was then made between the findings in Iowa policies and the findings from court cases and statutes.

CHAPTER II

LEGAL ASPECT ACCORDING TO COURT DECISIONS

Before a comparison could be established in regard to the exclusion of pupils from school, an investigation was conducted to ascertain reasons, past and present, for the dismissals.

Interesting facets were revealed in court cases involving decisions of expulsion. The area of pupil conduct was one in which there was a vast body of common law which had to be considered in conjunction with written laws. Some items were governed by statute. As long as a statute was constitutional, local school authorities had to act in accordance with it. Where there was no statute, or where the statute was vague, the common law prevailed.

In order to constitute lawful expulsion there must be a deprivation of school privileges on proper grounds by the person or persons authorized under the law to expel.¹ Conditions for expulsion normally are set forth in state statutes, and in most jurisdictions a pupil can be expelled only by official action of the local school board.² The

¹Corpus Juris Secundum (Brooklyn: The American Law Book Company, 1952), LXXIX § 503, p. 448.

²Reutter, loc. cit.

statutes and the courts recognize that to exclude a child from public school is a grave matter.¹ The interests and welfare of the other students, however, are held to be paramount to those of an affected individual.²

Proceedings for expulsion must be in accordance with law. In the absence of arbitrary or malicious action the courts will not interfere. The decision of school authorities in expelling or suspending a pupil is final as far as it relates to the rights of the pupil to enjoy the privileges of the school. It is not subject to judicial interference except where lack of power, or fraud, or gross injustice is shown, or school authorities act arbitrarily or maliciously. As a general rule the pupil, if his parent or guardian desires it, must be granted a hearing before the school board on the charges against him, before he can be permanently expelled.³

It is generally held that a parent has no right to sue for damages for the unlawful expulsion or suspension of his child. It is the child, rather than the parent, on whom the deprivation falls. Since there is no privity of contract between the parent and the teacher, the right of

¹Ibid., p. 55.

²Ibid.

³Corpus Juris Secundum, op. cit., p. 450.

a parent to recover damages from a teacher has been denied.¹

Preservation of good order. A refusal to comply with a reasonable rule or regulation may constitute grounds for expulsion or suspension, but a pupil cannot be suspended or expelled for a refusal to comply with a rule or regulation that is not needful for the government, good order, or efficiency of the school.²

The board of education in Fond du Lac, Wisconsin, had listed among its rules and regulations for the preservation of good order and discipline in schools, rule number twenty-seven, which was that any pupil guilty of disobedience to a teacher, or of gross misconduct, would be suspended by the principal. For many years there existed in all the schools of the city of Fond du Lac, except the high school, a regulation known and approved by the board, whereby teachers of the several schools had been authorized to require each pupil of sufficient age and bodily strength, upon returning from the play-ground at recess, to carry into the schoolroom a stick of wood fitted for stove use. It was for a refusal of this order that a boy was suspended. The case was taken to court whereupon the court held that a

¹American Jurisprudence (San Francisco: Bancroft-Whitney Company, 1943), XLVII §187, p. 434.

²Corpus Juris Secundum, op. cit., p. 449.

regulation for each scholar to take wood into the schoolroom for the fire was not "needful" for the government, good order, and efficiency of the schools, and a child could not be suspended for disobeying such a regulation.¹

Malicious destruction. A pupil cannot be suspended or expelled for a careless act, no matter how negligent, which is not willful or malicious.² The board of directors of the Independent School District of West Des Moines, Iowa, provided by rule that any scholar injuring or defacing the school building would be required to pay for the damage, and on default of payment, would not be allowed to attend school until payment was made. A twelve-year-old boy accidentally batted a ball through the schoolhouse window whereupon he was told to pay three dollars for the damage. He did not make the payment, so he was excluded from school. The court held that the rule was without authority and void. The child would not be deprived of an education because of an innocent and unintentional act.³

Persistent disobedience. A pupil may be suspended

¹Bowe v. Bd. of Education of City of Fond du Lac, 23 N.W. 102 (1885).

²Corpus Juris Secundum, op. cit., p. 450.

³Perkins v. Bd. of Directors of the Independent School District of West Des Moines, 9 N.W. 356 (1880).

for persistent disobedience, insubordination, or other misconduct. A boy in Kentucky was suspended for his refusal to take part in commencement exercises. A Kentucky statute required pupils to comply with legal regulations for their government, and made willful disobedience or defiance of teachers' authority ground for suspension. In the case *Cross v Walton Common School* in 1908, the court of appeals of Kentucky held that Waite Cross, a high school junior, had been legally suspended by the principal and that the action of the trustees in approving the suspension was conclusive. Waite Cross had refused to take part in a dialogue in the annual commencement exercises. His refusal was interpreted by the court to constitute disobedience, and refusal of offers permitting his return on taking another part constituted insubordination and was good cause for suspension.¹

Gross immorality. Under an Iowa statute, the board of directors of a school district had power to dismiss a pupil for gross immorality, or for persistent violation of the regulations of the school. In the case *Murphy v Board of Directors of the Independent District of Marengo*, Murphy had been expelled from school by his teacher for having committed such acts that tended to destroy the peace and

¹*Cross v. Walton Common Schools*, 110 S.W. 346 (1908).

harmony of the school. He had written articles that held up the board members to ridicule. The plaintiff contended that he was not guilty of gross immorality; he had the right to publish his sentiments, and the board could not delegate authority of expelling scholars to the teacher. The Iowa District Court decided the case in favor of the directors but the Supreme Court of the State of Iowa reversed the decision. While the board had power to dismiss a pupil for gross immorality and violation of regulations, the Supreme Court contended that the board did not have power to dismiss for conduct. Even though such acts had a tendency to incite ridicule of the directors, they were not immoral or prohibited by any rule or regulation.¹

Unexcused absences. Expulsion or suspension has been held justified for continued absences without satisfactory excuses. In the case *Wulff v Wakefield* in Massachusetts in 1915, a young girl was suspended from classes because she absented herself, without excuses, from her bookkeeping class. She and a competing girl were both near the top of the class, academically, in bookkeeping. The teacher delegated to the competitor the task of correcting papers, which she did by comparing answers from a "key."

¹Murphy v. Board of Directors of the Independent District of Marengo, 30 Iowa 429 (1871).

A certain problem submitted by Miss Wulff was marked incorrect by her competitor. After working on the problem for several days, the plaintiff submitted it again. Once more it was marked incorrect. The plaintiff worked on it another week and handed the same result to the teacher, who marked it correct. The stepfather of the plaintiff requested that all work be corrected by the teacher, instead of other pupils, because of the effect on his step-daughter. He said she became worried, nervous, lost her appetite, and could not sleep.

Pending a hearing, the plaintiff dropped bookkeeping, and when she continued to be absent, she was formally suspended.

The court's decision was that no legal right of the pupil or parent had been violated, and that the correction of papers by another student was purely administrative detail.¹

Under the constitution and the laws of Iowa, it was provided that boards of school directors could suspend pupils from school if they were absent or tardy, except for unavoidable cause, a certain number of times within a fixed period.²

¹Wulff v. Wakefield, 109 N.E. 358 (1915).

²Burdick v. Babcock, 31 Iowa 562 (1871).

In the school district of Decorah, Superintendent Babcock suspended a pupil because he had violated a rule in regard to absences. The rule was that any pupil absent six half-days and tardy twice in any four-week period would be suspended. The father of the pupil was informed that his son would be reinstated if the father would render a proper excuse for the absences and give assurance that the acts would not be repeated. The pupil had been kept home to help with the work, and the father gave no assurance against repetition of this act.

The Winneshiek District Court decided the case in favor of the plaintiff. Upon appeal, the Supreme Court of the State of Iowa reversed the decision, contending that the rule was reasonable. Constant and prompt attendance was for the good of the pupil and was essential to the well-being and success of all the pupils.¹

Drunkenness. Being drunk or disorderly on Christmas Day on the village streets in violation of the village ordinance was reason for suspension in Arkansas.² In 1909, in the case *Douglas v Campbell*, a student was suspended twenty days for drunkenness on Christmas Day. The Supreme

¹Burdick v. Babcock, 31 Iowa 562 (1871).

²Corpus Juris Secundum, loc. cit.

Court of Arkansas handed down the decision that the suspension was legal. The court contended that any conduct on the part of the pupil that tended to demoralize other pupils, and to interfere with the proper and successful management of the school was subject to punishment prescribed by statute. Under the statute, the school district directors were authorized to temporarily suspend a pupil who had been drunk and disorderly.¹ As shown in this case, school boards have authority to enforce regulations concerning pupil conduct off the school grounds and out of school hours.

Mode of dress. In accord with the general principle that school authorities may make reasonable rules and regulations governing the conduct of pupils under their control, school authorities may prescribe the mode of dress to be worn by students or make reasonable regulations as to their personal appearance.² A pupil could be suspended or expelled for the use of cosmetics, contrary to school regulations. A school board of directors in Arkansas prohibited the wearing of transparent hosiery, low-necked dresses, and face paint. In 1921, after those rules had been read to

¹Douglas v. Campbell, 116 S.W. 211 (1909).

²American Jurisprudence, (San Francisco: Bancroft-Whitney Company, 1943), XLVII §171, p. 425.

the pupils by the principal, Miss Pugsley arrived at school with talcum powder on her face. The teacher asked her to wash it off and to refrain from using it at school. A few days later, she appeared at the school with more talcum on her face. She was denied admission to the school because she had not obeyed the rules. She was not expelled, but being denied admission to the school was considered tantamount to expulsion. The court did not interfere with the discretion of the school board because it held the rule to be reasonable. In determining whether a regulation of the school board was unreasonable, the court considered whether it involved any oppression or humiliation to the pupil, and what consumption of time or expenditure of money was necessary to comply with it. The court held that it did not appear unreasonable in any of those respects.¹ The school board had the right to regulate dress and personal appearance of pupils while in attendance at school, provided the rules were reasonable.

Refusal to salute the flag. Prior to the United States Supreme Court decision of *West Virginia State Board of Education v. Barnett* in 1943, a pupils' refusal to participate in a flag salute ceremony was considered to be a

¹Pugsley v. Sellmeyer, 250 S.W. 538 (1923).

valid ground for suspension or expulsion.¹ The Supreme Court, in 1943, ruled that a child could not be compelled to salute the flag against his parents' wishes; the court did not rule that the ritual was unconstitutional as an element in the public school program. Before the decision of the United States Supreme Court in 1943, the court had held that saluting the flag and pledging allegiance were not an infringement upon religious liberty. Notwithstanding that decision, many states still have the flag salute and the pledge of allegiance; however, the exercise cannot be made compulsory.²

A New Jersey statute of 1932, and a Maine statute of 1935, required pupils to salute the flag and pledge allegiance.³ Two pupils, ages five and six, were expelled from a New Jersey school for not participating; in Maine an eight-year-old was expelled for the same reason.⁴ In each case the child stated he was deprived of religious liberty. The Supreme Court contended that saluting the flag was not a

¹Corpus Juris Secundum (Brooklyn: The American Law Book Company, 1952), LXXIX §503, p. 449.

²Edmund Reutter, Jr., Schools and the Law (New York: Oceana Publications, Inc., 1960), p. 35.

³M. M. Chambers, "You Can't Come to School," Nation's Schools, XX (December, 1937), 33.

⁴Ibid.

religious observance. Reference was made to a Supreme Court decision handed down in 1934, in which the court decided that there was no infringement of religious freedom if a state required military training as a requirement for entrance into college.¹

Abusive language of parents. A child may be made to suffer suspension or expulsion because of offensive and insulting language spoken by his father or mother within the schoolroom, to the teacher. A mother entered a classroom of one of her children during school hours and interfered with the discipline of a child and used abusive language to the teacher. The teacher reported the incident to the superintendent who suspended all three children of the mother. The Supreme Court of Georgia held that the suspension was legal.² Since the board of education had charge and control of a system of free schools established by law and supported by taxation, it was the court's contention the board had the right to suspend the pupils because of such actions by a parent.

Other reasonable rules. Rules prohibiting pupils from leaving the school ground during the noon hour and

¹Ibid.

²Bd. of Education v. Purse, 28 S.E. 896 (1897).

rules prohibiting movie attendance, except Friday and Saturday, have been held reasonable by the courts.¹ Following is a list of disciplinary rules held reasonable by the courts.

Exclusion caused by persistent disobedience.

Exclusion caused by unexcused absences.

Exclusion caused by drunkenness.

Exclusion caused by mode of dress.

Exclusion caused by non-participation in flag-salute.

Exclusion caused by gross immorality.

Exclusion caused by offensive language of a parent to a teacher.

Exclusion caused by movie attendance other than Friday or Saturday night.

Exclusion caused by leaving the school ground during the noon hour.

Other unreasonable rules. A rule requiring pupils to remain at home and study between seven and nine in the evening has been held by the courts to be unreasonable.² Following is a list of disciplinary rules held unreasonable by the courts.

¹Lee Garber, Handbook of School Law (New London: Arthur C. Croft Publications, 1954), p. 149.

²Ibid.

Exclusion caused by non-participation in flag-salute.

Exclusion caused by failure to carry fire-wood into schoolhouse for stove.

Exclusion caused by failure to pay for defacement of property.

Exclusion caused by failure to study between 7 p.m. and 9 p.m.

California experiment. In the Modesto City Schools in California, an over aggressive primary boy, a bright sixth grade girl, and an eighth grade boy were suspended when they did not conform to a set of standards adopted by the Board of Education. In 1957, the schools adopted a program of therapeutic suspension and have used it successfully since that time. Results have been gratifying to teachers, students, and parents.¹

In the Modesto district, a child was sent home any day that he could not conform. There were no penalties, no threats, or promises at school or at home. The teacher simply handed the child a green slip of paper, which was the child's cue to go to the office. From there he went home alone or his parents called for him. The next day he returned to school as if nothing had happened. It was

¹Roger W. Chapman, "School Suspension as Therapy," Personnel and Child Guidance Journal, XL (April, 1962), 731.

found, after five to ten suspensions, the child realized he could not exploit anyone for personal gain. When he learned that his behavior was his responsibility, his powers of self-control became evident.¹

Teachers and parents have adhered rigidly to the program. The teacher had no fear of being reprimanded by an administrator or parents for a wrongful suspension, because the standards had been set with the cooperation of teachers, parents, and pupils.²

Tools of discipline. Suspension and expulsion are disciplinary tools which have been made available to administrators to help create a pleasant environment within a classroom. They are available tools to use sparingly and with discretion. They apply to all grades and they have been used in all grades.

In the cases presented, it has been shown that courts were frequently called upon to determine whether or not school board regulations were reasonable or unreasonable. Courts were reluctant to call a rule unreasonable; the discretion of the school board was respected. Courts have upheld the authority of school boards in regard to pupil conduct off the school grounds and out of school hours.

¹Ibid.

²Ibid.

School children of all ages were subject to exclusion, the youngest in this study being a five-year-old who would not salute the flag. This was a case in which the United States Supreme Court reversed itself and decided that the rule expelling pupils for failure to participate in the flag-salute was unreasonable.

A California school district experimented with what it called therapeutic suspension, in which a child was quietly sent home when he did not conform to the rules of the school. He returned the following day with no questions from anyone. It was hoped this type of suspension would result in self-discipline.

Courts did not review findings of a school board unless it could be shown that the school officials acted arbitrarily or maliciously.

CHAPTER III

EXAMINATION OF IOWA POLICIES FROM ADMINISTRATIVE HANDBOOKS

Handbooks from forty-nine Iowa school districts were available for the investigator to review. From the total number that the Iowa State Education Association had on file, twenty handbooks had nothing written pertaining to exclusion of pupils from school. The remaining twenty-nine were studied further for the data in this chapter. A variety of reasons for suspension and expulsion was found in the Iowa school policies. The investigator reported the reasons as they were written in the policies, even though overlapping was apparent.

Alcoholic beverages. From the twenty-nine districts in Iowa that were available for scrutiny, ten were specific about suspension and expulsion for drinking alcoholic beverages. Eight recommended immediate suspension, with probable expulsion, and two recommended immediate expulsion.

Possession of tobacco. From the same twenty-nine districts, five of the policies were specific in that suspension would result from the possession of tobacco. The exclusion time ranged from three days to nine days, with one district expelling for a second offense.

Smoking and drinking. Four districts had policies prohibiting smoking and drinking; eight districts suspended pupils for smoking or drinking, and two districts expelled immediately for smoking or drinking.

Unexcused absences. According to seven of the policies, pupils would be suspended for misconduct, but there was no specific definition of misconduct. Unexcused absence was listed by seven school districts as a reason for suspension and one dealt firmly with skipping school by automatic expulsion for thirty days.

"Skipping" school is a serious infraction of the school's regulations and will be dealt with firmly, including automatic expulsion for thirty days, with admittance only by parental conference.¹

Two districts expelled pupils for truancy following the second offense, and one district suspended pupils only if the time lost in skipping school was not made up within the week following their return to school. Two districts suspended for excessive tardiness.

Deduction in grades. In only one of the districts was it specifically written that grades would be affected by suspension. The student would be dropped from the class rolls for three days, suffer a three per cent deduction in

¹Columbus Junction, Iowa, "Student-Parent Handbook" Columbus Community High School (1963), p. 6.

grades for each day missed, or a total of twelve per cent from all nine-week grades.

Traffic regulations. Two school districts have a written policy that pupils who drive cars and disobey the parking and traffic regulations will be forbidden to drive to school or be suspended.

Mode of dress. Three districts have rules concerning mode of dress but no regulations for punishment if the rules are not followed. Another district includes hair styles in their policy and the punishment for failure to comply is ineligibility to participate in any extra-curricular activity.

Reason of character. Two districts have policies stating they will suspend pupils for obscene language; one district excludes undesirable students by reason of character.

Misbehavior. In accordance with policy regulations, four districts will expel and two districts will suspend students for serious misbehavior. From those same six districts, one district suspends for misbehavior and expels for serious misbehavior, however, no definitions were given for those two terms.

Disrespect. Six districts have written policies stating they will suspend students for open disrespect to the faculty.

All pupils who persistently violate the rules of the school and refuse to obey the teacher or enter into an agreement with other pupils to bring the authority of the teachers into contempt shall be suspended.¹

Disobedience. Consistent violation of rules and disobedience are grounds for suspension in five districts.

Malicious destruction. The written policy in one district states it will expel pupils for malicious destruction; four districts suspend; one district suspends only if restitution is not made.

Immorality. Students are expelled in two districts for immoral behavior; in two districts they are suspended.

Quarantine. Disregarding quarantine is cause for suspension in two districts; another district excludes a child if it appears he has a communicable disease. "No child shall be received or continued in school except in compliance with the health statutes of the state."²

¹Hamburg, Iowa, "School Board Policy" Hamburg Community School District (1961), p. 9.

²Ottumwa, Iowa, "Rules and Regulations of the Board of Education" Ottumwa Community School District (1960), p. 27.

Habitual failure. For habitual failure, one district will suspend pupils for the remainder of the school year.

Fighting, stealing, hazing, unsportsmanlike conduct. Two districts have policies stating they will suspend pupils for fighting; one district will suspend a student if he displays unsportsmanlike conduct, and one district will expel for thievery. One district will suspend for hazing.

The reasons why pupils would be excluded from school in Iowa as reported in policy handbooks from twenty-nine school districts in Iowa are:

<u>Reasons for exclusion</u>	<u>Number of Districts Recommending Suspension</u>	<u>Number of Districts Recommending Expulsion</u>
Drinking alcoholic beverages	8	2
Possession of tobacco	5	1
Smoking or drinking	8	2
Misconduct	7	0
Unexcused absences	7	1
Excessive tardiness	2	0
Disobedience of traffic regu- lations at school	2	0
Obscene language	2	0
Undesirable character	0	1
Serious misbehavior	2	4
Misbehavior	1	0

<u>Reasons for exclusion</u>	<u>Number of Districts Recommending Suspension</u>	<u>Number of Districts Recommending Expulsion</u>
Open disrespect to faculty	6	0
Consistent disobedience	5	0
Malicious destruction	5	0
Immoral behavior	2	2
Disregarding quarantine	2	0
Communicable disease	1	0
Habitual failure	1	0
Fighting	2	0
Unsportsmanlike conduct	1	0
Thievery	0	1
Hazing	1	0

The following chapter compares Iowa policies with good reason; the Iowa statute requires that the student be given a hearing before the school board or a court.

Fifty-two percent of the Iowa students reported that they had been suspended or expelled from school.

Walters, 1970

Walters, 1970

Walters, 1970

Walters, 1970

Walters, 1970

Walters, 1970

p. 18.

CHAPTER IV

COMPARISON OF IOWA DATA WITH COURT CASES

A few of the cases reported in this study are almost one-hundred years of age; however, many of the reasons for suspension and expulsion are the same today as they were at that time.

Unexcused absences. Two cases, one an Iowa case in the year 1871 and the other a Massachusetts case in the year 1915, were in agreement in that a rule in relation to unexcused absences was held to be reasonable.¹ Iowa does not honor unexcused absences. In a current hearing an Iowa couple has been charged with violation of the state school attendance law.² Their two children have been absent without good reason; one for thirty-two half days and the other for fifty-two half days. An Iowa statute requires that any person having control of any child over seven years of age and under sixteen years of age, in proper physical and mental condition, shall cause that child to attend some public school at least twenty-four consecutive school weeks in each school year, commencing at a date set by the board

¹Burdick v. Babcock, 31 Iowa 562 (1871); Wulff v. Wakefield, 109 N.E. 358 (1915).

²News item in the Des Moines Register, March 5, 1965, p. 18.

of school directors. In lieu of such attendance a child may attend upon equivalent instruction by a certified teacher elsewhere.¹ Any person who violates this provision shall be fined not less than five dollars nor more than twenty dollars for each offense.²

Malicious destruction. In regard to malicious destruction, one Iowa district of those studied, will suspend a pupil if he does not pay for the damage. In an Iowa school, in which a twelve-year-old boy was suspended for not making payment for damage, it was decided by the court that the rule was without authority and void.³ It had been determined that the damage caused by the boy was unintentional.

Violation of regulations. In the Code of Iowa, section 282.4, the board may by a majority vote expel any scholar from school for immorality, or for a violation of the regulations or rules established by the board, or when the presence of the scholar is detrimental to the best interests of the school. It may confer upon any teacher,

¹J. C. Wright, School Laws of Iowa (Des Moines: State of Iowa, 1960), p. 553.

²Ibid., p. 554.

³Perkins v. Bd. of Directors of the Independent School District of West Des Moines, 9 N.W. 356 (1880).

principal, or superintendent the power temporarily to dismiss a scholar, with notice of the dismissal being sent immediately to the president of the board.¹ Iowa policies have regulations regarding misbehavior, serious misbehavior, open disrespect to faculty members, insubordination, misconduct, consistent violation of rules and disobedience. There are no specific meanings given to any of these terms. Courts have been given the duty of interpreting rules, in some instances. A boy in a Kentucky court case had been suspended because he refused to participate in commencement exercises.² The statute required pupils to comply with regulations and made willful disobedience or defiance of teachers' authority grounds for suspension. His refusal was interpreted by the court to constitute disobedience.

Immoral conduct. One Iowa district will exclude undesirable students by reason of character. A Massachusetts court ruled that a school committee could refuse to admit to school a girl guilty of immoral conduct.³ School authorities may deny admission to pupils who are so unclean as to

¹Wright, op. cit., p. 499.

²Cross v. Walton Common Schools, 110 S.W. 346 (1908).

³Newton Edwards, The Courts and the Public Schools (Chicago: The University of Chicago Press, 1955), p. 541, citing Sherman v. Charlestown, 8 Cush. 160.

render them unfit to associate with others.¹

Disregard of quarantine. In Iowa, two districts suspend for disregard of quarantine. Wrongful exclusion was the decision of the Supreme Court of Illinois in the case Burroughs v Mortenson.² A thirteen-year-old boy was excluded from school for eighteen days because he would not consent to vaccination for smallpox. The New York Court of Appeals upheld the exclusion of a ten-year-old boy for the same reason; he refused to be vaccinated for smallpox.³ Two courts deciding the same issue took opposite views. The significance lies not in the different decisions, but in the reasons for the decisions. In the Illinois case, the court found that an administrator had no right to exclude a pupil except according to regulations established by the board of education and the board of health. There were no such regulations. In the New York case, a regulation of the board of education provided that no pupil would be allowed to attend school, nor any teacher would be employed unless vaccinated for smallpox. The New York State Constitution provided that schools could adopt such

¹Newton Edwards, The Courts and the Public Schools (Chicago: The University of Chicago Press, 1955), p. 541.

²Burroughs v. Mortenson, 143 N.E. 457 (1924).

³Viemeister v. White, 72 N.E. 97 (1904).

resolutions.

Mode of dress. Reasonable mode of dress and hair style are in some Iowa policies; however only one district of the four included in this investigation restrict the pupils if they do not conform. The restriction provides that the student cannot participate in extra-curricular activities. A case in regard to mode of dress in relation to religious principles was decided in the Supreme Court of Alabama. A young girl was excluded from school because she refused to wear certain clothing and to participate in physical education. The decision of the court was that she was not required to participate nor wear prescribed clothing, but she was obligated to attend physical education classes.¹ A fifteen-year-old student in a Connecticut school was suspended because he wore his hair in bangs. The board and the state education authorities upheld the suspension. The local superintendent was prepared to invoke the state compulsory education law when the father enrolled the boy in a private school.²

Use of tobacco. An Iowa statute prohibits the use

¹Mitchell v. McCall, 143 S. 2d, 629 (1962).

²Phi Delta Kappan, As Superintendent What Would You Do About This? (Spencer: Phi Delta Kappa, Inc., 1965), XLVI, p. 297.

of tobacco and other narcotics in any form by any student, and the board may suspend or expel any student for violation of such rule.¹ No cases were found in relation to this statute; however, sixteen of the districts had regulations concerning smoking and possession of tobacco.

Not all rules and regulations have been questioned; only doubtful ones are decided in the courts.

¹Wright, op. cit., p. 479.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

I. CONCLUSIONS

The problem was to investigate legal aspects of suspension and expulsion and to compare them with Iowa statutes and with board policies of selected school districts.

Investigation revealed, through court cases involved, that suspension and expulsion of pupils have been questioned many times. Some rules and regulations were held by the courts to be reasonable while others were held to be unreasonable.

The educators who suspended pupils were not acting outside the law; they had been granted such authority by the governing body of the school district. The power to expel lies only within the jurisdiction of the local school board; however, the board may confer upon any teacher, principal, or superintendent the power to temporarily dismiss a pupil. Boards could not enforce rules governing conduct in instances where the conduct was not directly related to the good order or efficiency of the school. If a court found that a pupil had been expelled for what the court considered an unreasonable rule, the court issued an order

requiring the reinstatement of the expelled pupil. The courts acted only upon the reasonableness or unreasonableness of a rule, not upon the findings of a school board, unless it had been shown that the board acted arbitrarily or maliciously.

A teacher could not be held liable in cases involving wrongful suspension of a pupil, if the teacher had acted in accordance with an established rule. Even if a teacher had exceeded authority but had acted in good faith, he was not held liable. It was held that the rule had been unreasonable, not the teacher enforcing the rule.

It has been decided by the United States Supreme Court that pupils cannot be excluded from school for failure to salute the flag or pledge allegiance against their parent's wishes. The court did not rule that the ritual itself was unconstitutional. Many schools perform this ceremony but it is not compulsory that each pupil participate.

Boards have power provided by statute to suspend pupils for unexcused absences or excessive tardiness. The power to suspend or expel for any act detrimental to the best interests of the school gave a board authority to enforce regulations governing pupil conduct off the school grounds and out of school hours.

Reasonable rules in regard to personal appearance were within the jurisdiction of school boards. A board

had the authority to expel a pupil for improper mode of dress.

A school board had the power to exclude pupils from school for health reasons and for refusal to be vaccinated.

School boards have broad powers. Courts did not interfere with actions of a board unless a gross injustice had been committed by that board. School directors had the authority to make such rules and regulations, as, in their judgment, were essential to promote the public good.

Reasons for suspension and expulsion in Iowa were similar to reasons elsewhere. Unexcused absences, drinking, misconduct, immoral behavior, disregarding quarantine, and mode of dress are reasons for exclusion that have existed since the turn of the century. With the advent of the automobile, disobedience in regard to traffic regulations has become a reason for suspension. The personal appearance trend has gone from type of clothing to hair style.

In Iowa, the enrollment in the school districts reviewed, ranged from three hundred pupils to forty thousand pupils. The number of enrollees was no factor in reasons given for exclusion of pupils. Only one school district had a rule in which grades would be reduced because of suspension, and the enrollment in that school was fewer than one thousand.

Exclusion of pupils from school was a disciplinary tool, used seldom but questioned often.

II. RECOMMENDATIONS

Twenty of the Iowa school district policies reviewed had no written rules in regard to exclusion of pupils from school. The investigator is of the belief that all school districts should have such rules included in the handbooks. Distribution of handbooks to parents, pupils, and school personnel would be recommended. Knowing what is expected of one in accordance with rules and regulations is conducive to good relationships in the home, in the school, and in the community.

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